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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PENDLETON DIVISION

**BLUE MOUNTAINS BIODIVERSITY,  
PROJECT**, an Oregon nonprofit corporation,

Plaintiff,

Case No. 2:20-cv-2158-SU

**DECLARATION OF  
MARILYN MILLER**

v.

**SHANE JEFFRIES**, in his official capacity  
as Ochoco National Forest Supervisor; and  
**UNITED STATES FOREST SERVICE**,  
an agency of the United States Department  
of Agriculture,

Defendants.

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I, Marilyn Miller, state and declare as follows:

1. I am over the age of eighteen and I make this declaration based on my own personal knowledge. If called to testify, I could and would testify as follows.

2. I reside 12 miles east of Bend, Oregon, with my husband. I have lived on the east side of the Cascades since 1999. My husband, Dr. Craig R. Miller, has lived in Bend since 1981.

3. I have been an actively-contributing supporter of the Blue Mountains Biodiversity Project (“BMBP”) for the past 20 years. I receive a regular newsletter, written action alerts, and annual reports. I also consult on a regular basis with BMBP’s paid staff about Forest Service proposals and BMBP’s position regarding those proposals, including the Walton Lake Restoration Project.

4. For over 15 years I have engaged in various types of spiritual, aesthetic, professional, and recreational uses of the Ochoco National Forest (“ONF”), and specifically in the Walton Lake area. I believe that the Walton Lake Restoration Project proposed by the Forest Service will harm native plants and wildlife (especially birds) – contrary to synergistic biodiversity values and environmental protection standards – impeding my spiritual, aesthetic, professional, and recreational use and enjoyment of the forest surrounding Walton Lake. Specifically, I believe that the proposed logging will harm native plants, wildlife (including birds), and water quality, and will completely change the aesthetic and visual qualities of the dense mixed-conifer forest that currently exists in parts of the Project area. I believe that these actions will significantly change the balance of species within the Forest and the

composition of the Forest, detrimentally disrupting the natural processes from which I derive spiritual, aesthetic, professional, and recreational value.

5. My special interest in the ONF derives from my spiritual and recreational activities in that National Forest and in Oregon generally. I am one-half Native American, and I derive spiritual value from biodiversity and natural forest processes. As a Certified Naturalist, Master Woodland Manager, and in my capacity as owner of Miller Conservation Consulting and past member of Central Oregon Forest Stewardship Foundation, I have consulted with the U.S. Forest Service on wildlife and vegetation management for over 15 years. I have been a professional wildlife photographer for the last 35 years, and have published my work in magazines, newspapers, and calendars. I photograph many wildlife species, including birds, lizards, insects, large mammals including bears, and fish. I am a past board member of the Juniper Group Sierra Club; the East Cascades Bird Conservancy, the Central Oregon Audubon Society, and the Oregon Chapter of the Sierra Club; and a current member of the Portland Audubon Society, National Audubon Society, Oregon Wild, Oregon Natural Desert Association, and Oregon Field Ornithologists, among other organizations. I am a very active birder and wildlife enthusiast. I have conducted native bird surveys across Oregon, especially in National Forests, for over twenty years. These interests and activities brought me to the ONF.

6. For over 15 years I have enjoyed many recreational activities in the ONF, including hiking, camping, wildlife observation, nature photography, and bird watching. My husband and I travel to different regions of the ONF, including the Walton Lake area, every few months because it provides excellent bird and wildlife-

watching opportunities and scenic beauty. The Walton Lake area is one of the most popular outdoor destinations in the ONF largely for these reasons, and so the public will also be greatly impacted by the proposed project.

7. My husband and I enjoy walking through the old growth areas and mixed conifer areas on our trips to the Walton Lake area because of the diversity of species found there and in the surrounding areas, and we intend to go back again to visit the Walton Lake campground and surrounding areas in the very near future. I visit the Project area every few months. My most recent visit was on August 5, 2021. During that visit I observed a number of juvenile and young birds, including pied-billed grebe, osprey, Cassin's finch, red-winged blackbirds, American robins, and American coot, indicating to me that these birds breed in the immediate Walton Lake area.

8. I enjoy spending time with friends in the Walton Lake area. Examples of special moments around the lake include seeing a Williamson's sapsucker while picnicking with a friend and watching Canada jays eat from a wasp nest.





*Wasp nest at Walton Lake*

9. I keep a dated journal with bird lists that I use every time I visit Walton Lake. I enjoy using it to track rare birds, track migration seasons, and to reflect.

10. The significant logging in and around the Walton Lake area, if it occurs, will harm my spiritual, aesthetic, and recreational interests in and enjoyment of the Forest in that area. Specifically, I believe that the proposed logging will negatively impact and reduce bird and other native wildlife populations and will thus reduce my ability to observe and enjoy the diversity of animal species in the ONF, including the Walton Lake area. If the Project goes forward and the Forest Service removes as many trees as described in the Decision Notice and supporting documents, the Forest Service's actions will endanger individual species and habitat of wildlife that interest

me, including birds, insects, and mammals. Degradation of bird habitat or injury to individual species will force bird populations elsewhere, inhibiting my ability to observe, photograph, and track them.



*Lesser Scaup at Walton Lake*

11. Some specific bird species that I have observed in and around the Project area, and which will be harmed by the proposed logging because of habitat destruction, include:

- a. Townsend's solitaire;
- b. White-headed woodpecker;
- c. Pileated woodpecker;
- d. Black-backed woodpecker;

- e. Hairy woodpecker;
- f. Pygmy owls;
- g. Western screech owl;
- h. Flammulated owl;
- i. Saw-whet owl;
- j. Red-naped sapsucker;
- k. Williamson's sapsucker
- l. Townsend's warbler;
- m. MacGillivray's warbler;
- n. White-breasted nuthatch;
- o. Red-breasted nuthatch;
- p. Mountain chickadee;
- q. Northern goshawk;
- r. Dusky grouse;
- s. Vaux's swift;
- t. Trumpeter swan; and
- u. Canada jay.

12. Because I am an avid user of the ONF and specifically the Walton Lake area, I have little doubt that the proposed logging will negatively affect the area's water, soil, and wildlife, and the Forest's visual and aesthetic qualities, including the specific places I use and intend to use again, thus harming my use and enjoyment of the Forest. If the Project moves forward, I will avoid using the Walton Lake area due to the detrimental effects that logging will have on wildlife individuals and habitat,

the visual and aesthetic quality of the area, my understanding of the natural balance of plant and animal species, and my sense of spiritual peace within the Forest. I believe that before it decides to cut down trees, the Forest Service should perform an appropriate and public environmental analysis, with proper consideration of the proposed logging's impacts on wildlife and habitat.

13. I am concerned that the Forest Service is using the limited presence of laminated root rot to justify expansive logging in areas that are not at appreciable current risk for laminated root rot. I believe the Forest Service is overreaching with regard to this particular justification for logging.

14. I am concerned that the proposal to cut a large number of fir trees throughout the Project area will destroy the natural feel and visual quality of the area around Walton Lake.

15. I was shocked to learn that the Forest Service intended to log large, uninfected fir trees not only in the campground and within striking distance of trails, but even in areas outside the campground and away from trails. Cutting large uninfected fir trees in areas away from people seemed inconsistent with the Forest Service's public-safety justification for the logging. As explained above, I have extensive experience and knowledge in forest science in Oregon, including reviewing many logging project proposals. My understanding in that area is well above the average person's. However, in reading the scoping notice, it was not even clear to me that the Forest Service intended to harvest large, uninfected firs in areas far away from where people primarily recreate, which is in the campground and along the trails.



16. I am concerned that slash piles resulting from this project will open up a whole new type of insect infestation and that the ponderosa log decks may lead to an ambrosia beetle infestation.

17. I learned that the Forest Service intends to conduct what appears to be a full type-conversion of the dense mixed-conifer forest in the Project area, and that the impact to the landscape, visual and otherwise, would be extreme. A full type-conversion of the mixed-conifer forest would not retain either the natural feel or the visual quality of the Project area and would harm my interests in the use of these areas.

18. I believe the Forest Service's decision is illegal because the agency already committed resources to a logging contract before beginning the EA process.

19. My history of involvement with the Walton Lake Project indicates that I am an interested party, however, the Forest Service failed to notify me of its plan to restart the NEPA process for this project. I did not receive a notification for a public information meeting in June of 2019. I seem to have been intentionally omitted from an e-mail notifications list because nearly 200 organizations and individuals received notification for this meeting, but I did not.

20. I participated in the objection process for this project.

21. I believe that my reasonable concerns can be remedied by the relief sought by BMBP.

22. I believe that the Forest Service failed in its obligation to accurately and adequately disclose the impacts of the proposed logging to animal species, to human health, and to the overall aesthetic and visual resources that currently exist around

Walton Lake. I believe that, had the Forest Service adequately disclosed and analyzed the impacts of this project through a proper NEPA analysis, then the potential harm and adverse impacts to the environment could have been avoided.

23. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed in Bend, Oregon this 7th day of August, 2021.

*s/Marilyn Miller*  
Marilyn Miller